

LESLIE E. DEVANEY  
ANITA M. NOONE  
LESLIE J. GIRARD  
SUSAN M. HEATH  
GAEL B. STRACK  
ASSISTANT CITY ATTORNEYS

OFFICE OF  
**THE CITY ATTORNEY**  
CITY OF SAN DIEGO

**Casey Gwinn**  
CITY ATTORNEY

CIVIL DIVISION  
1200 THIRD AVENUE, SUITE 1620  
SAN DIEGO, CALIFORNIA 92101-4199  
TELEPHONE (619) 236-6220  
FAX (619) 236-7215

December 1, 1997

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL, AND TO  
THE COMMISSIONERS OF THE PUBLIC  
FACILITIES FINANCING AUTHORITY

ROLE OF THE CITY ATTORNEY AS A COMMISSIONER OF THE PFFA

As you know, upon taking office, I immediately became personally involved in the litigation over the financing of QUALCOMM Stadium and, in particular, the litigation over the referendum effort on the expansion of the Stadium. Also upon taking office, I succeeded John Witt as an ex officio Commissioner (along with the City Manager and City Auditor and Comptroller) of the Public Facilities Financing Authority ("PFFA"). Since that time, I have examined the dual role the City Attorney plays, as a Commissioner of the PFFA and in the Office of the City Attorney providing legal services to the PFFA.

Based upon concerns I developed, I requested my staff to research a number of issues surrounding that dual role, including any ethical considerations that may be present. My staff has concluded that, while there is no prohibition on the dual role, ethical considerations require me to search my conscience to determine if I believe that, to a layperson, an appearance of impropriety in the operation of the dual role now exists.

In light of the recent events and litigation over the Stadium, I believe that such an appearance of impropriety might exist and, accordingly, have resolved to resign as a Commissioner of the PFFA. My resignation will allow my Office to continue to provide the necessary legal services to the PFFA without any appearance of impropriety. There should be no adverse consequences to the City, PFFA, outstanding bond issuances, or other public entities as a result of my resignation. The City Council, Redevelopment Agency and the PFFA need to determine, however, if the PFFA should continue to operate with only two (2) Commissioners or if an alternative Commissioner should be appointed.

As a direct result of the litigation over the Stadium, the courts have found that the PFFA is a lawfully constituted joint powers authority. My resignation does not contradict those court

Honorable Mayor & City Council, &  
Commissioners of the Public  
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findings nor the legality of bonds or other financing instruments issued by the PFFA. Nor should my action be interpreted as a comment on the propriety of the previous City Attorney, John Witt, serving as both Commissioner and having his Office provide legal services. I believe Mr. Witt acted ethically and appropriately under the facts and circumstances present during his administration. My decision is driven solely by the facts and circumstances now present, and my personal observations and conclusions regarding my ethical obligations as attorney to the PFFA.

I believe this action is in the best interests of the PFFA and the City, and my Office will continue to provide legal services to those clients consistent with the highest legal and ethical standards.

Respectfully submitted,

CASEY GWINN  
City Attorney

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Enclosure

RC-97-27

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